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09/849,938	05/04/2001	Christophe Fouquet	SCH-87	8408

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EXAMINER
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JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/849,938

Applicant(s)

FOUQUET, CHRISTOPHE

Examiner

Scott L. Jarrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-24, 26-34, 36-40 and 42-50 is/are rejected.
- 7) ☒ Claim(s) 5, 25, 35 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This **Final** Office Action is in response to Applicant's amendment filed May 24, 2006. Applicant's amendment amended Claims 1-50. Currently Claims 1-50 are pending.

#### ***Response to Amendment***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

The Objection to the Title in the previous Office Action is withdrawn in response to Applicant's amendment to the Title.

The 35 U.S.C. 112(2) rejection of Claims 1, 3, 16-17, 21, 29, 38, 42 and 49 is withdrawn.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., highlighting opportunities to improve a facility's resource utilization) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's request for the publication date of Solomon Associates Web Pages, Pages 18-62, entitled "1999 Methodology Section" which discloses Solomon Associate's methodology in performing its "Worldwide Olefin Plant Performance Analysis for Operating Year 1999" was downloaded from Archive.org's archived version of SA-INC.com however the examiner is unable to provide a definitive publication date for the methodology section of SA-Inc.com web Pages ("1999 Methodology Section", Pages 18-62).

It is noted that comparative benchmarking studies (facility modeling) are very well known and widely practiced in industry; for example Solomon Associates has conducted industrial comparative performance benchmarking (a.k.a. industry studies, SA-Profile, FUELS Multi-Client Study, Lubes Multi-Client Study, Olefins Multi-Client Study, etc.), similar if not identical to the 1999 benchmarking study disclosed, since as early as 1980.

### ***Objections***

4. Claims 5, 25, 35 and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 8-17, 19-24, 26-29, 31-41, 42 and 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Building Design Advisor (BDA) (computer-implemented method and system) developed by Lawrence Berkeley National Laboratory University of California, Berkeley features, capabilities and/or characteristics inherent in BDA being disclosed in at least the following supporting references:

I. Papamichael K. et al., The Building Design Advisor (1996), herein after reference A;

II. Papamichael K. et al., Building Design Advisor: Automated integration of multiple simulation tools (1997), herein after reference B; and

III. Papamichael K. et al., Product modeling for computer-aided decision making (1999), herein after reference C

in view of Zaloom, U.S. Patent No. 6,366,889 and further in view of Crooks et al., U.S. Patent No. 6,088,688.

Regarding Claims 1-3, 13, 16-17, 21, 24, 29, 38, 42 and 48 Building Design Advisor (BDA) teaches a system and method for modeling the performance of a facility, in relation to the facility's resource (creating dynamic facility models), comparing the

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resource utilization performance (efficiency) of multiple facilities and generating user defined reports comprising (reference A: Abstract):

- creating an attributes catalog (list, library) comprising selecting user-defined and system-defined attributes (reference A: Last Paragraph, Page 9; Figures 1, 5-6; reference C: schema editor, schema database; Column 1, Page 5; Figures 2-5);

- using a template editor (GUI, interface, input mechanism, etc.) to assign attributes to a user or system-defined templates (prototypes editor, prototypes database; reference C: Column 2, Page 5; Figures 2, 6);

- using a facility editor (window, screen, input, etc.) to assign selected template (forms, guides, spreadsheets, prototypes, schema, etc.) to a facility (the building browser, the schematic graphic editor; reference A: Last Paragraph, Page 6; Pages 9-10; Figures 5-6; reference B: Pages 9-10; Figures 5-7; reference C: Column 1, Paragraph 2, Page 4) wherein the template includes default facility attribute data (prototype value database, default value selector; reference A: Last Paragraph, Page 12; reference B: Paragraph 2, Page 12; reference C: Column 1, Paragraph 2, Page 10);

- obtaining (generating, receiving, determining, etc.) facility resource utilization data (RESEGY, DOE-2, RESEM, etc.; reference A: Last Paragraph, Page 1; reference B: Figure 1; reference C: Column 2, Paragraph 1, Page 8; Figures 1, 8);

- generating (providing, displaying, etc.) reports wherein the reports contain facility modeling, resource utilization and benchmarking data (the decision desktop;

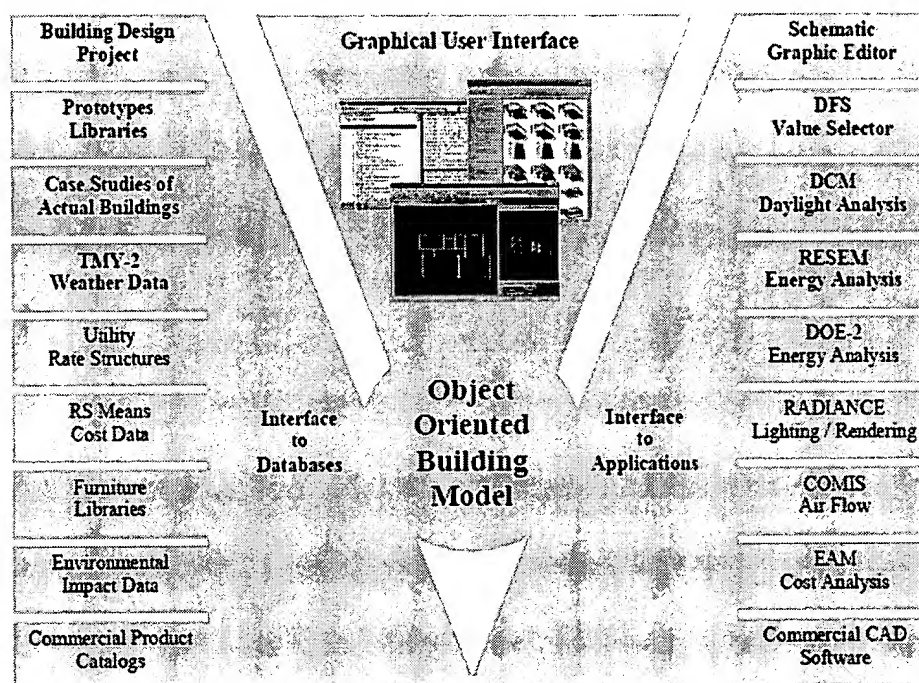
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reference A: Pages 7-8; Figures 3-4; reference B: Pages 7-8; Figures 3-4; reference C: Column 1, Page 4; Column 1, Page 5); and

- comparing resource utilization data (benchmarking, comparative analysis, etc.;

the decision desktop; reference A: Abstract; Pages 7-8; Figures 3-4; reference B:

Pages 7-8; reference C: Column 1, Page 4; Column 1, Page 5).



*Figure 1. A schematic diagram showing the Building Design Advisor software environment. Bold face text indicates databases and applications that are part of the 1.0 release. The rest of the modules will be linked in future BDA versions.*

**Figure 1: BDA, Figure 1, reference B**

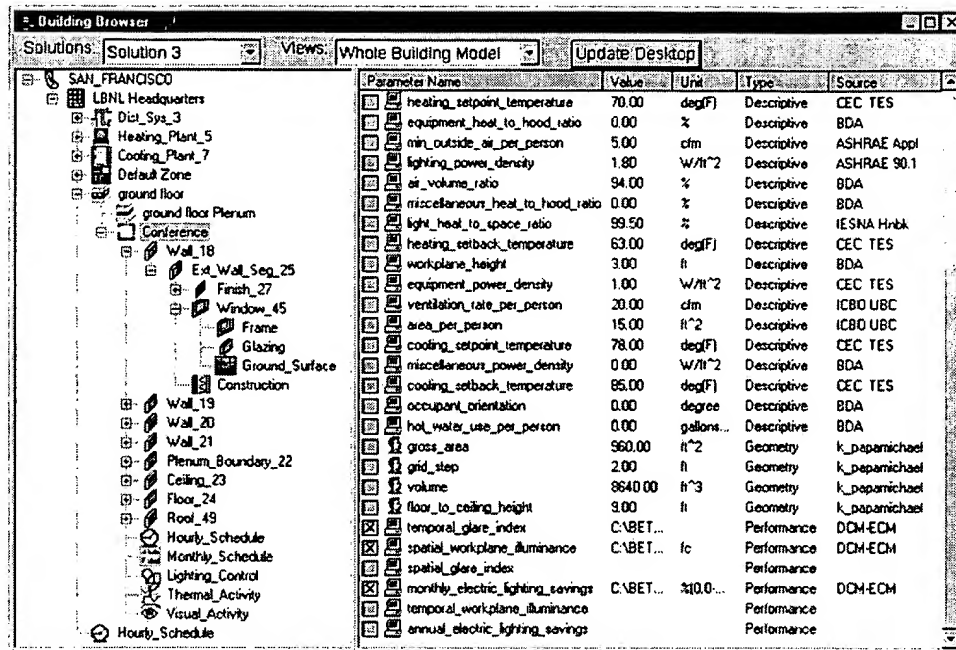


Figure 5. The Building Browser allows the user to quickly navigate through the object-based representation of the building and its context, and select any number of input and output parameters for display in the Decision Desktop.

Figure 2: BDA, Figure 5, reference B

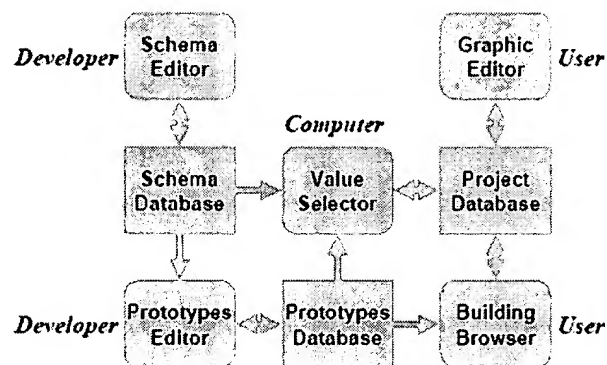


Fig. 2. Schematic diagram showing the three main databases used in the BDA and the main processes that operate on them.

Figure 3: BDA, Figure 2, reference C



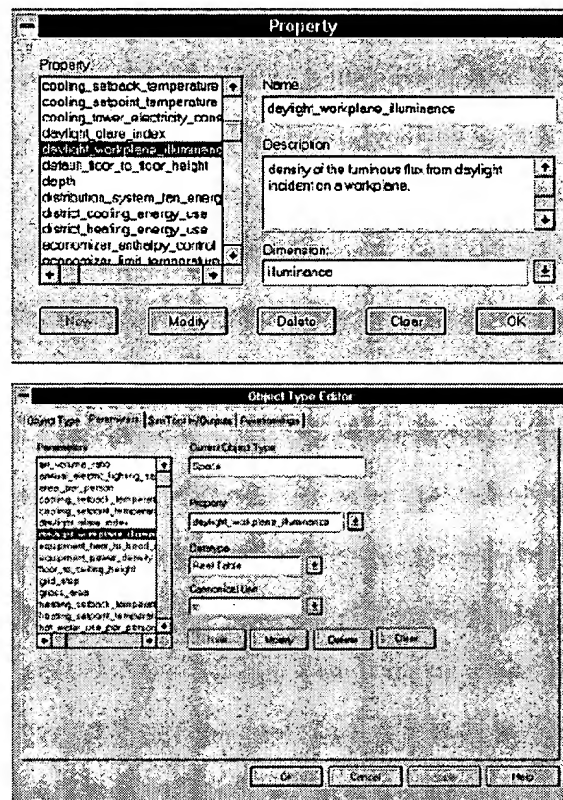


Fig. 4. Example screen captures from the Schema Editor illustrating the definition of properties and their assignment to objects as parameters.

Figure 4: BDA, Figure 4, reference C

BDA does not expressly teach normalizing the resource utilization data, defining resource utilization data relative to instances (time periods, points in time, etc.) wherein the data is created or updated or generating real-time and historical reports as claimed.

Zaloom teaches a system and method for modeling the resource utilization performance of one or more facilities comprising (Abstract):

- using a facility editor (window, screen, input, form, input section, etc.) to define instances (time periods, intervals, points in time, etc.; e.g. billing periods; hourly, daily,

monthly, yearly, etc.; Column 7, Lines 19-25 and 37-46; Column 11, Lines 5-19; Column 14, Lines 25-45) where the system/user attributes are created or updated and to assign selected data to a facility (Column 8, Lines 42-60; Figures 1-7);

- normalizing (standardizing, create common basis for comparison, etc.) resource utilization data, for the instances/time periods (e.g. billing periods), based on a predefined template (form, formula, standard, etc.; Column 3, Lines 40-50; Column 7, Lines 58-68);

- generating (providing, displaying, etc.) historical reports wherein the reports contain facility, resource utilization and benchmarking data (Column 1, Lines 1-8; Column 7, Lines 37-68; Figures 8-13); and

- comparing normalized resource utilization data (benchmarking, comparative analysis, etc.; Column 3, Lines 60-68; Column 7, Lines 57-68; Column 12, Lines 3-23; Figures 8, 10-13)

in an analogous art of modeling facility resource utilization performance (efficiency) for the purposes of using a common basis (i.e. normalizing facility resource utilization data) for comparing the resource utilization of two or more facilities in order to identify areas for improvement and/or recommendations/possible solutions (Column 3, Lines 51-68; Column 4, Lines 41-58; Column 12, Lines 23-33).

More generally Zaloom teaches a system and method for modeling the performance of a facility, in relation to the facility's resource (creating dynamic facility models), comparing the resource utilization performance (efficiency) of multiple facilities and generating user defined reports comprising (Abstract; Column 7; Figures 30A-30C):

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- using a facility editor to define facility data (Column 7, Lines 26-28; Column 8, Lines 43-68; Figure 1);
- obtaining resource utilization data (Column 7, Lines 29-35; Column 9, Lines 6-14; Figures 2A-2B);
- electronically storing facility and resource utilization data (Column 5, Lines 45-55)
- providing the system via an Interactive electronic medium (Column 13, Lines 50-65);
- comparing the normalized resource utilization data for a user-defined group of facilities (Column 3, Lines 55-68; Column 4, Lines 22-31 and 41-57; Column 7, Lines 25-68);
- wherein the resource utilization data includes oil, gas, electric or water (Column 7, Lines 10-15); and
- wherein the normalization step is activated by at least one of the following (selected of the following) events: a user update of a facility model by updating facility attribute values to reflect changes; the demand of a user or the elapse of a predetermined period of time (Column 7, Lines 37-68).

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SAMPLE LARGE ELECTRIC ACCOUNT	
BUILDING PARAMETERS	
FACILITY NAME	Sample Large Electric Account
FACILITY ADDRESS	Sample Address
ELECTRIC OPERATING HOURS	8:00 am - 8:00 pm <span style="border: 1px solid black; padding: 0 5px;">2</span>
BUILDING TYPE	Office Building <span style="border: 1px solid black; padding: 0 5px;">6</span>
ACCOUNT NUMBER	Sample Acct. No.
DISCOUNTS	1,432,000 <span style="border: 1px solid black; padding: 0 5px;">4</span>
ELECTRIC SPACE HEATING	NO
UTILITY	PEPCO
PLANT	GT-3A
FAVORABLE	NO
SPECIAL REMARKS	

Fig. 1

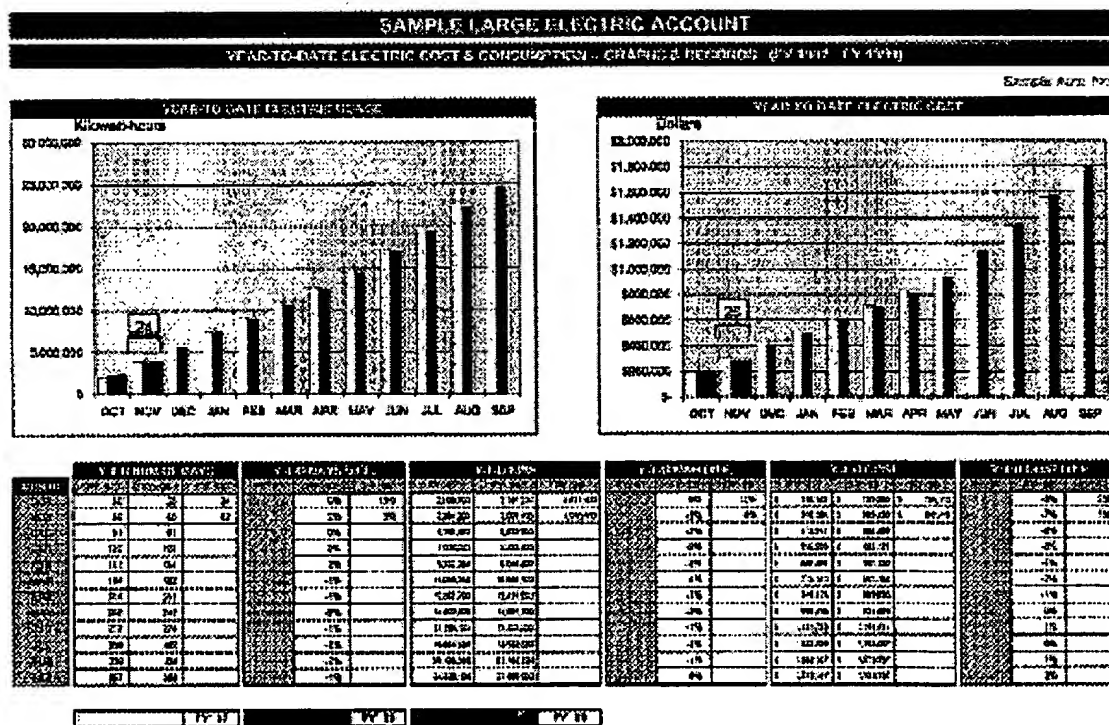


Fig. 6

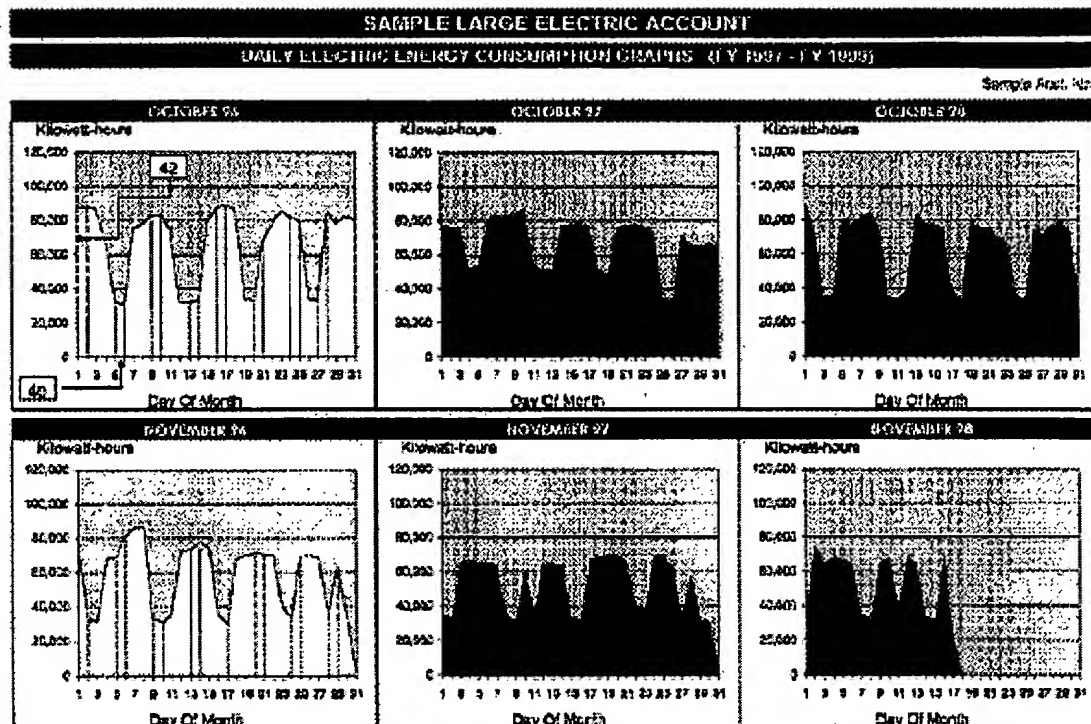


Fig. 11

It would have been obvious to one skilled in the art at the time of the invention that the system and method for modeling the resource utilization performance of one or more facilities as taught by BDA would have benefited from normalizing the resource utilization data, defining resource utilization data relative to instances (time periods, points in time, etc.) wherein the data is created or updated and generating reports in view of the teachings of Zaloom; the resultant system and method enabling users the ability to highlight opportunities to improve a facility and/or facilities resource utilization (Zaloom: Column 3, Lines 51-68; Column 4, Lines 41-58; Column 12, Lines 23-33).

Neither BDA nor Zaloom expressly teach generating real-time reports as claimed.

Crooks et al. teaches generating historical and real-time reports (Column 4, Lines 10-15; Column 11, Lines 42-65; Column 19, Lines 57-68; Column 20, Lines 1-9) in an analogous art of modeling the resource utilization performance of one or more facilities (Column 2, Lines 8-35) for the purpose of giving users the ability to identify opportunities to improve a facility or facilities resource utilization and take timely corrective actions (e.g. reduce resource consumption, corrective action; Column 4, Lines 51-52) as well as identify changes in resource utilization/performance that occur over time "which can be used to identify operational issues in a facility or site which impact resource cost" (Column 16, Lines 39-49; Column 20, Lines 1-9).

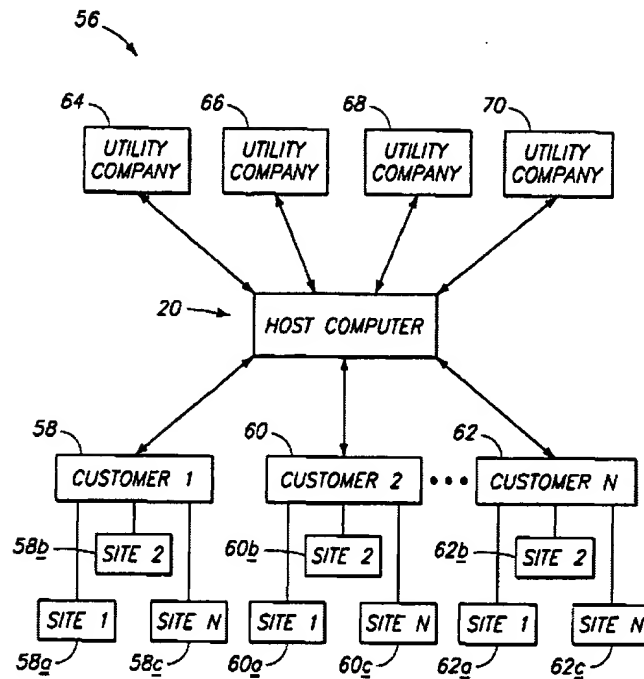
More generally Crooks et al. teaches a system and method for creating dynamic resource utilization facility models comprising:

- normalizing resource utilization data for instances/time period (e.g. daily normalization; Column 4, Lines 43-46; Column 14, Lines 27-31);
- generating (providing, displaying, etc.) one of historical and real-time reports wherein the reports contain facility modeling, resource utilization and benchmarking data (Column 4, Lines 10-15; Column 11, Lines 42-65);
- comparing normalized resource utilization data (Column 11 65-68; Column 12, Lines 15-60; Column 13, Lines 52-65; Figures 10-12, 17, 18A-18C);
- using a facility editor (screen, Page, GUI, etc.) to define facility data (Column 6, Lines 60-68; Column 7, Lines 1-6; Column 11, Lines 26-40 and 50-65; Figures 9-10);
- obtaining resource utilization data (Column 7, Lines 7-29; Figure 3; Figure 5, Element 220);

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- electronically storing facility and resource utilization data (Figure 1, Element 28; Figure 5, Element 200);
- providing the system via an intercommunicating electronic medium (Internet; Column 5, Lines 1-10 and 57-68);
- ranking the performance of multiple facilities utilizing normalized facility/facilities resource utilization data (Column 17, Lines 38-60; Figures 41, 42A-42B)
- generating customer user specified reports for a user selected group of facilities (Column 12, Lines 22-60; Figures 11-12);
- aggregating resource and facility attribute data according to user defined criteria for a user defined group of facilities (Column 12, Lines 15-61; Column 20, Lines 10-46; Figures 51, 52A-52B); and
- wherein the resource utilization data includes oil, natural gas, electric or water (Column 8, Lines 64-68).

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**SRS/ACIS**

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Address <http://> Links

**Site Information**

Company Name: ACIS Suites  
 Site Name (Store Number): Detroit Luxury Suites (590)  
 Address: 250 Lincoln Park Way  
 Detroit, MI

**Production Units**

Fixed Daily Production Units: Available Rooms  
 Number Of Units: 110  
 Variable Monthly Production Units:  
 Site Opened Date: 02/25/92 mm/dd/yy

**Climate Zone**

This site has been assigned: Zone 2

**Secondary Units**

	1995	1996	1997
Jan:	0	0	0
Feb:	0	0	0
Mar:	0	0	0
Apr:	0	0	0
May:	0	0	0
Jun:	0	0	0
Jul:	0	0	0
Aug:	0	0	0
Sep:	0	0	0
Oct:	0	0	0
Nov:	0	0	0
Dec:	0	0	0

ACIS

Done



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SRS/ACIS

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Address http://

120

Click below to pick where to go!

Resource Accounting

ASK OUR STAFF

122

ACIS Suites

128

Choose Report Type:

Resource Cost

130

Resource Use

132

Energy Cost Index

134

Energy Use Index

136

EUI/ECI Analysis

138

EUI Frequency Overview

140

24 Month Trend

Production Report

Area To Report On:

Company Wide

124

Select Site:

Total Area

Select Site 2:

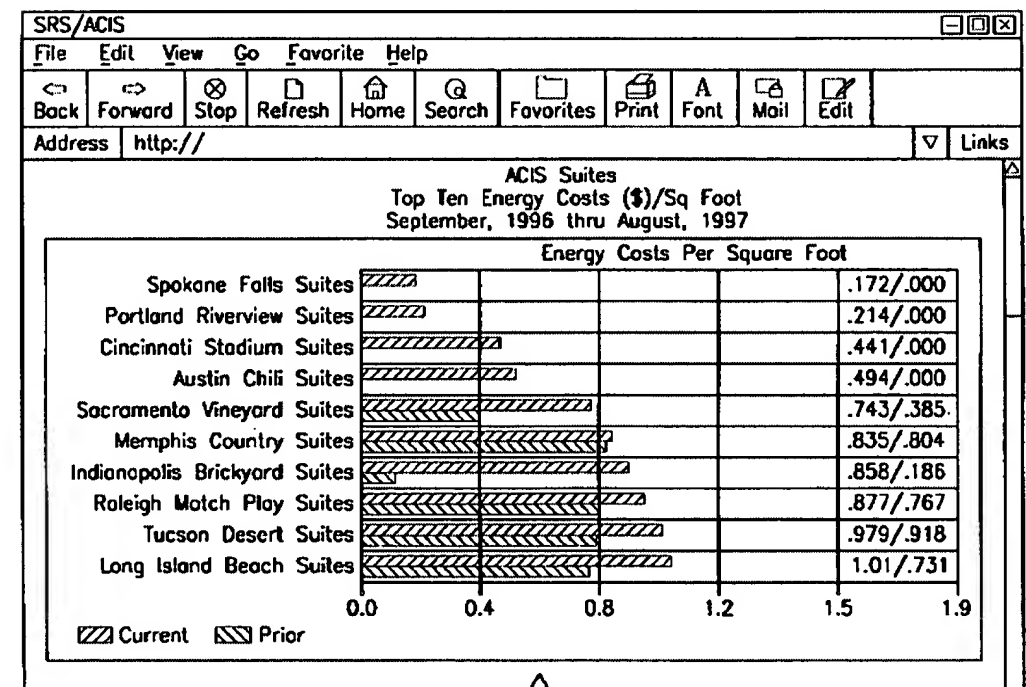
None

All From: 1/01/97 Thru: 10/31/97 Display

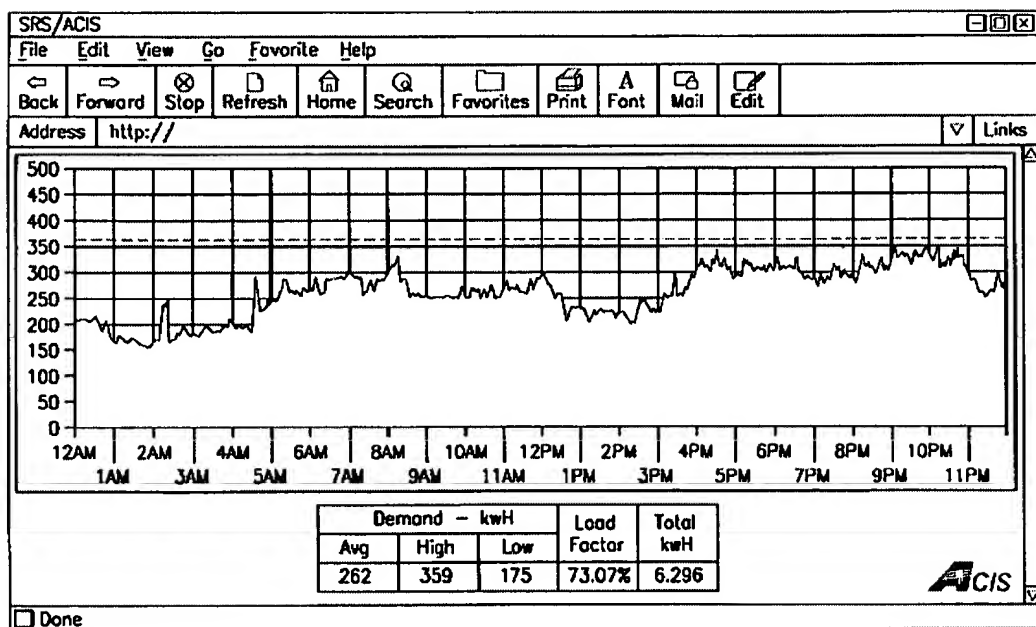
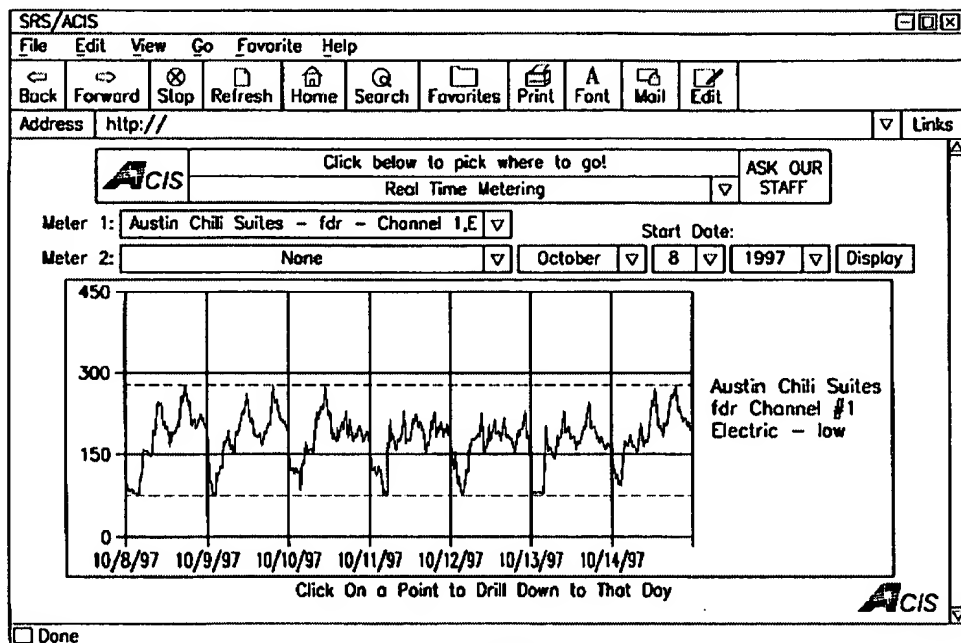
Set The Options Above To Display A Report...  
When You Are Ready, Click The Display Button.

ACIS

Done



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It would have been obvious to one skilled in the art at the time of the invention that the system and method for modeling the resource utilization performance of one or more facilities utilizing normalized resource utilization data as taught by the combination of BDA and Zaloom would have benefited from providing real-time resource utilization/performance reports in view of the teachings of Crooks et al.; the resultant system/method giving users the ability to identify opportunities to improve the facility or facilities resource utilization and take timely corrective actions (Crooks et al.: Column 4, Lines 51-52) as well as identify changes in resource utilization/performance that occur over time "which can be used to identify operational issues in a facility or site which impact resource cost" (Crooks et al.: Column 16, Lines 39-49).

Regarding Claims 4, 26 and 49 BDA teaches a method and system for facility modeling wherein the attributes catalog (list, library, template, etc.) is maintained in a predetermined electronic storage (reference A: Paragraphs 2-4, Page 6; Last Paragraph, Page 12; Figure 1; reference B: Figure 1; reference C: Column 1, Page 5; Figure 2).

Regarding Claims 6, 20 and 39 BDA does not expressly teach normalizing resource utilization data or subsequently that the normalization step is activated by at least one of the following (selected of the following) events: a user update of a facility model by updating facility attribute values to reflect changes; the demand of a user or the elapse of a predetermined period of time as claimed.

Zaloom teaches normalizing resource utilization data and subsequently that the normalization step is activated by at least one of the following (selected of the following) events: a user update of a facility model by updating facility attribute values to reflect changes; the demand of a user or the elapse of a predetermined period of time (Column 7, Lines 37-68) in an analogous art of modeling the resource utilization performance of one or more facilities for the purposes of highlighting opportunities for resource utilization improvement (e.g. "highlight anomalies") through the comparison of "unusual pattern or energy use or consumption over the normalized pattern or energy use or consumption" (Column 3, Lines 66-68; Column 10, Lines 14-19).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for modeling the resource utilization performance of a group of user selected facilities as taught by BDA would have benefited from normalizing resource utilization data and subsequently activating the normalization step by at least one of the following events: a user update of a facility model by updating facility attribute values to reflect changes; the demand of a user or the elapse of a predetermined period of time in view of the teachings of Zaloom; the resultant system/method enabling users to identify opportunities for resource utilization improvement through the comparison of "unusual pattern or energy use or consumption over the normalized pattern or energy use or consumption" (Zaloom: Column 3, Lines 66-68; Column 10, Lines 14-19).

Regarding Claims 8, 22, 31 and 44 BDA teaches a method and system for facility modeling further comprising obtaining (generating, determining, receiving; etc.) resource utilization and facility attribute data for two or more facilities (RESEM, RESGY, DOE-2, energy analysis tools, etc.; reference A: Last Paragraph, Page 1; reference C: Column 2, Paragraph 1, Page 8; Figures 1, 8; reference B: Figure 1).

Regarding Claims 9, 19, 32 and 45-46 BDA teaches a method and system for facility modeling further comprising aggregating (compiling, collecting, side-by-side comparison, the decision desktop, comparative analysis, etc.) resource and facility attribute data according to user defined criteria for a user defined group of facilities (reference A: Abstract; Pages 7-8; Figures 3-4; reference B: Pages 7-8; reference C: Column 1, Page 4; Column 1, Page 5).

Regarding Claims 10, 23 and 33 neither BDA nor Zaloom expressly teach that the facility attribute and resource utilization data include the aggregate *sum* for two or more facilities as claimed.

Crooks et al. teach that the facility attribute and resource utilization data include the aggregate sum for two or more facilities (e.g. resource cost report; Column 13, Lines 16-35; Figures 13, 14A-14C) in an analogous art of modeling the resource utilization performance of one or more facilities for the purposes of enabling "the facility manager

can identify variances in consumption costs of one or more particular resources and identify problem areas which might need attention" (Column 13, Lines 33-35).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for facility modeling using normalized resource utilization data as taught by the combination of BDA and Zaloom would have benefited from including an aggregate sum for two or more facilities of the facility attribute and resource utilization data in view of the teachings of Crooks et al. for the purposes of enabling "the facility manager can identify variances in consumption costs of one or more particular resources and identify problem areas which might need attention" (Crooks et al.: Column 13, Lines 33-35).

Regarding Claims 11-12 BDA teaches a system and method for comparing/benchmarking a user-defined group of facilities using resource utilization and other facility data (the decision desktop; reference A: Pages 7-8; Figure 3; reference B: Pages 7-8; Figure 3; reference C: Column 1, Page 4).

BDA does not expressly teach normalizing resource utilization data, as discussed above, or subsequently comparing/benchmarking the normalized resource utilization data for a user-defined group of facilities as claimed.

Zaloom teaches normalizing resource utilization data and comparing the normalized resource utilization data for a user-defined group of facilities (Column 3, Clines 55-68; Column 4, Lines 22-31 and 41-57; Column 7, Lines 25-68) in an analogous art of facility resource utilization performance modeling for the purposes of highlighting opportunities for resource utilization improvement (e.g. "highlight anomalies") through the comparison of "unusual pattern or energy use or consumption over the normalized pattern or energy use or consumption" (Column 3, Lines 66-68; Column 10, Lines 14-19).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for modeling the resource utilization performance of a group of user selected facilities as taught by BDA would have benefited from normalizing resource utilization data and comparing the normalized resource utilization data for a user-defined group of facilities in view of the teachings of Zaloom; the resultant system/method enabling users to identify opportunities for resource utilization improvement through the comparison of "unusual pattern or energy use or consumption over the normalized pattern or energy use or consumption" (Zaloom: Column 3, Lines 66-68; Column 10, Lines 14-19).

Regarding Claims 14, 27, 36 and 50 BDA teaches a system and method for facility modeling wherein the resource utilization includes at least one of the following

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(selected from) energy, water, natural gas or oil (DOE-2, RESEY, RESEM, energy analysis; reference A: Paragraph 3, Page 1; Figures 1, 3; reference B: Figure 1).

Regarding Claims 15, 28, 37 and 49 BDA teaches a system and method for facility modeling further comprising providing access to the system (predefined template, resource utilization data, data normalization, default attribute data, reports, etc.) via intercommunicating electronic media (network; reference A: Paragraph 2, Page 15; reference B: Paragraph 3, Page 14).

Regarding Claim 39 BDA a system and method for creating facility models further comprising an attributes catalog editor (screen, dialog, input mechanism, GUI, etc.) for performing selection functions: creating and adding new facility attributes to attributes catalog and deleting user-defined attributes (reference A: Last Paragraph, Page 9; Figures 1, 5-6; reference C: schema editor, schema database; Column 1, Page 5; Figures 2-5).

Regarding Claim 47 BDA teaches a system and method for facility modeling further comprising comparing resource utilization data by sorting resource utilization and facility data for the purposes of selecting the "best"/most appropriate facility design (side-by-side comparison, comparing alternative facility designs, etc.; the decision desktop; reference A: Last Paragraph, Page 8; reference B: Last Paragraph, Page 8).



Neither BDA nor Zaloom expressly teach utilization normalized resource utilization data, as discussed above, or subsequently ranking facilities based on the normalized resource utilization data as claimed.

Crooks et al. teaches ranking the performance of multiple facilities utilizing normalized facility/facilities resource utilization data (Column 17, Lines 38-60; Figures 41, 42A-42B) in an analogous art of facility performance modeling for the purposes benchmarking (comparing) the resource utilization of multiple facilities in order to identify/highlight opportunities for improvement (Column 13, Lines 53-68; Lines 1-20; Figures 14, 17, 18A-18C).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for modeling the resource utilization performance of one or more facilities using normalized resource utilization data as taught by the combination of BDA and Zaloom, with its ability to compare sorted lists of one or more facilities, would have benefited from ranking one or more facilities based on the normalized resource utilization data in view of the teachings of Crooks et al.; the resultant system/method assisting users in identifying areas for improvement based on the comparison/benchmarking of one or more facilities (Crooks et al.: Column 13, Lines 53-68)

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7. Claims 7, 18, 30 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Building Design Advisor (BDA) (computer-implemented method and system) developed by Lawrence Berkeley National Laboratory University of California, Berkeley features, capabilities and/or characteristics inherent in BDA being disclosed in at least the following supporting references:

I. Papamichael K. et al., The Building Design Advisor (1996), herein after reference A;

II. Papamichael K. et al., Building Design Advisor: automated integration of multiple simulation tools (1997), herein after reference B; and

III. Papamichael K. et al., Product modeling for computer-aided decision making (1999), herein after reference C

in view of Zaloom, U.S. Patent No. 6,366,889 in view of Crooks et al., U.S. Patent No. 6,088,688 as applied to Claims 1-4, 6, 8-17, 19-24, 26-29, 31-41, 42 and 44-50 above and further in view of Juneau U.S. Patent Publication No. 2004/0015271.

Regarding Claims 7, 18, 30 and 43 neither BDA, Zaloom or Crooks et al. expressly estimating (predicting, forecasting, "guestimating", etc.) facility attribute and resource utilization data for any past period of time (historical) as claimed.

Juneau teaches estimating facility attribute and resource utilization data for any past period of time (historical), in an analogous art for modeling the performance (benchmarking) of a facility (Paragraph 0005), wherein the system is "...configured to

determine revenues likely to be generated by one or more plants, based upon actual historical operations and cost data and predicted operations and cost data...”

(Paragraph 0042; Figures 1, 2) and that such calculations assist in determining the performance, in this case financial performance/worth, of the facility.

More generally Juneau teaches method and system for modeling the performance of one or more facilities (benchmarking, performance evaluation/assessment, facility modeling) wherein the system/method enables “... users to evaluate the operational and financial performance of a selected power generated asset by utilizing a pre-defined strategic model...” (i.e. predefined facility template; Paragraph 0005) and further “...assists the user to perform comparisons of various facilities...” (Paragraph 0005).

More specifically Juneau teaches a method and system for modeling the performance of a facility further comprising:

- utilizing a set of predefined attributes (strategic models, template, catalog, etc.; Paragraphs 0049-0052; Figures 9, 15-16) wherein the templates have default (standard) values for attributes (“...input allows the user to select standard fuel analysis for coal, oil or natural gas or to input actual values...”, Paragraph 0050);

- enabling users to add, update or delete the plurality of attribute and facility information stored in a database (Paragraph 0070).

- utilizing an editor (form, interface, program) to manage a set of pre-defined and/or user-defined attributes, templates (strategic models) and other information (Paragraphs 0049-0052, 0070);

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- utilizing a computer network (Internet) to collect, analyze, and report a plurality of performance/benchmark information to/from a customer (Paragraphs 0036, 0044; Figure 1); and

- providing customers (users) access electronically (Internet) to at least the following: predefined templates (Paragraphs 0005, 0049-0052; Figures 9, 15-16), resource utilization collection means (Paragraph 0044), default facility attribute data (Paragraph 0050) and historical and real-time reports (Paragraphs 0042, 0071).

It would have been obvious to one skilled in the art at the time of the invention that the system and method for modeling the resource utilization performance of one or more facilities as taught by the combination of BDA, Zaloom and Crooks et al. would have benefited from estimating/predicting one or more historical performance attribute data in view of the teachings of Juneau; the resultant system enabling users to model performance attributes for which data is not readily available or is best represented by typical (standard, estimated) data/values (Juneau: Paragraph 0050).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Cmar, U.S. Patent No. 5,566,084, teaches a system and method for modeling the resource utilization performance of a facility utilizing normalized resource utilization data as well as estimating (reconstruction) data.

- Culp et al., U.S. Patent No. 6,996,508, teach a system and method for modeling and comparing the resource utilization performance on two or more facilities.

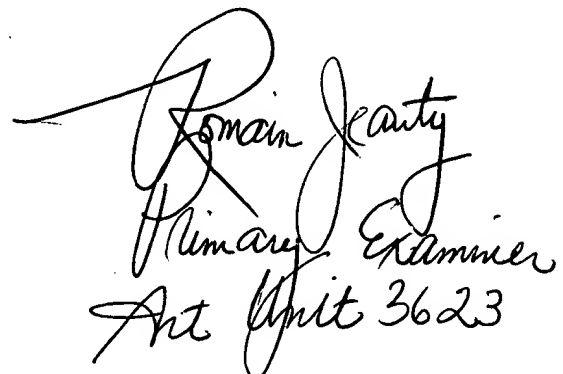
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SJ  
7/26/2006



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